

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

WILLIAM A. CAPOUILLEZ t/d/b/a	:	
GEOLOGICAL ASSESSMENT & LEASING,	:	DOCKET NO. 12-00,005
Appellant/Cross-Appellee,	:	
	:	CIVIL ACTION – LAW
vs.	:	
	:	CROSS APPEALS
LAUREL HILL GAME AND FORESTRY CLUB;	:	797 MDA 2013
WILLIAMSON TRAIL RESOURCES, LP; and	:	803 MDA 2013
RANGE RESOURCES – APPALACHIA, LLC,	:	
Appellee/Cross-Appellant.	:	

OPINION

Issued Pursuant to Pennsylvania Rule of Appellate Procedure 1925(a)

I. Appellant Capouillez

Appellant Capouillez raises nineteen (19) issues in his Statement of Matters Complained of on Appeal. This Court believes Appellant’s issues to be that the Court erred in: 1) dismissing Appellant’s breach of contract, tortious interference with contractual relations, and conspiracy claims; 2) finding no issues of fact existed as to whether Appellant was engaged in the unauthorized practice of law; 3) interpreting Appellant’s deposition testimony; and 4) failing to consider Appellant’s expert report. The Court believes that Appellant’s issues as to whether the Court erred by dismissing his breach of contract, tortious interference, and conspiracy claims are addressed in its Preliminary Objections Opinion and Order, filed June 15, 2012, and its Summary Judgment Opinion and Order, filed April 5, 2013. Likewise, the Court believes that Appellant’s issue as to whether he was engaged in the unauthorized practice of law can be found in the April 5, 2013 Opinion and Order. For the purposes of this appeal, the Court relies on these opinions and orders and requests that they be affirmed. The remaining two issues Appellant raises pertain to the evidence considered by the Court when making its summary judgment determination. The Court will address these issues in turn.

Appellant argues that his deposition testimony does not support the finding that he is engaged in the unauthorized practice of law. As provided in the Court's April 5, 2013, the Court found that Appellant's deposition testimony illustrates that there is no genuine issue of material fact on this issue. On the basis of Appellant's own admissions, the Court found that he was, by law, engaged in the unauthorized practice of law. *See* Pa. R.C.P. 1035.2(1). *Cf. Penn Center House, Inc. v. Hoffman*, 553 A.2d 900 (Pa. 1989) (Supreme Court found that a genuine issue of material fact existed when *non-moving party denied* knowledge and applicability of housing rules both in new matter and deposition testimony); *Natty-Glo Boro. v. American Surety Co.*, 163 A. 523 (Pa. 1932) (Supreme Court held that oral testimony of the *moving party* is insufficient to establish the absence of a genuine issue of material fact).¹ The Court requests that this conclusion of law be affirmed on appeal.

Additionally, Appellant argues that the Court erred by failing to consider his expert report on the unauthorized practice of law issue. Appellant appears to argue that an issue of fact exists because his expert found him to be not engaged in the unauthorized practice of law while the Court found that he was so engaged. Again, whether one is engaged in the unauthorized practice of law is a matter of law. It is the province of the Court to decide issues of law, while issues of fact are preserved for the jury. Appellant's expert report provides his expert's opinion on whether Appellant was engaged in the unauthorized practice of law, i.e. an issue of law. The Court is not bound by Appellant's expert's opinion; the Court must conduct its own analysis. After analyzing Appellant's own deposition testimony and the applicable case law, the Court found that Cross-Appellants Laurel Hill and Williamson Trail were entitled to summary

¹ The Court further notes that it was required to consider Appellant's deposition testimony when deciding Cross-Appellants' summary judgment motion, as it was a part of the record pursuant to Pa. R.C.P. 1035.1.

judgment on their unauthorized practice claim, pursuant to Pa. R.C.P. 1035.2(1). The Court requests this conclusion of law to be affirmed.

II. Cross-Appellants Laurel Hill and Williamson Trail

Cross-Appellants Laurel Hill and Williamson Trail argue that the Court erred as a matter of law, abused its discretion, and found against the weight of the evidence when it concluded that they were barred from recovery by the doctrine of unclean hands. The Court respectfully disagrees. The Court may apply the doctrine of unclean hands when the record suggests that a moving party acted unfairly, fraudulently, or deceitfully in its dealings. *Terraciano v. Dep't of Transportation*, 753 A.2d 233, 237-39 (Pa. 2000); *Jacobs v. Halloran*, 710 A.2d 1098, 1103-04 (Pa. 1998); *Shapiro v. Shapiro*, 204 a.2d 266, 268 (Pa. 1964). Cross-Appellants acquired its initial relationship with co-defendants through Plaintiff's actions that this Court found to constitute the unauthorized practice of law. However, Cross-Appellants then bargained individually with co-defendants to obtain a subsequent agreement without Plaintiff's knowledge. Sitting in equity, the Court could not conclude that Cross-Appellant's actions constituted honest and fair dealings. Therefore, the Court barred Cross-Appellant's recovery on its cross-claim by this equitable doctrine. On appeal, the Court requests this application to be affirmed.

In conclusion, the Court respectfully requests our Superior Court to affirm its Opinion and Order of April 5, 2013, dismissing the case.

BY THE COURT,

Date

Richard A. Gray, J.

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